IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 303 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME TAX

Versus

GUJARAT METAL CAST P LTD

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Appearance:

1. INCOME TAX REFERENCE No. 303 of 1987

MR BB NAIK for MR RP BHATT for Petitioner No. 1

SHRI RK PATEL for the Respondent 1

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CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 27/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following question of law has been referred to this court for its opinion by the Income Tax Appellate Tribunal Ahmedabad Bench 'A' under the provisions of sec. 256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

> "Whether the assessee was entitled to depreciation, investment allowance and relief u/s 80J on the cost of the assets without reducing therefrom the subsidy received from the Government?"

2. Learned advocate B.B. Naik has appeared for the revenue whereas learned advocate Shri R.K. Patel has appeared for the respondent-assessee.

3. It has been very fairly submitted by the learned advocates that the question, which has been referred to this court, has already been answered by the Hon'ble Supreme Court in the case of CIT v. P.J. Chemicals Ltd., 210 ITR 830.

4. Looking to the law laid down by the Supreme Court in the case of P.J. Chemicals (supra), we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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